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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,290	07/26/2007	Richard Thibault	0326-USPCT1	5001

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MEADWESTVACO CORPORATION  
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1021 Main Campus Drive  
Raleigh, NC 27606

EXAMINER
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PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

NOTIFICATION DATE	DELIVERY MODE
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08/05/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketadministrator@mwv.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,290	<b>Applicant(s)</b> THIBAUT, RICHARD	
	<b>Examiner</b> J. Gregory Pickett	<b>Art Unit</b> 3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 18-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 27-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 18-26 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Applicant's election without traverse of Group 1, claims 1-17 and 27-43, in the reply filed on 26 July 2010 is acknowledged.

Claims 18-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

The claim set under consideration is the set provided in the Article 34 amendment.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-17 and 27-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As noted in the PCT/IPEA/409 of the parent application PCT/US04/40970, the new term "barrier" (for defining the access preventing property of the sleeve) cannot be considered supported by the description such that claims 1, 10, 12, 14, 16, 27, 31, 36,

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and newly presented independent claim 38 introduce subject-matter which extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT.

New matter in the parent PCT application is also considered new matter in the corresponding National Stage application filed under 35 USC 371. See MPEP 1893.01(a)(3).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 39-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 39 recites the passage “the second” in line two; it is unclear as to what this passage refers. To examine the claim on its merits, the passage is presumed to refer to the second part of the complementary locking mechanism.

Claims 40-43 are dependent upon claim 39 and are rejected for the above reasons.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 10-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Vatter (US 2,353,376).

Vatter discloses a product package comprising a product container B having an external mating surface 64 and an outer sleeve A retaining said product container (Figs. 2-3) and also including an internal opposing mating surface 66 engaging external mating surface 64 of product container B, wherein a portion of the outer sleeve provides a barrier 10 preventing access to the internal opposing mating surfaces (Fig. 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-9, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vatter (US 2,353,376).

Vatter, as applied above, discloses the claimed invention with the exception of the reversal of the tab-recess arrangement. However, such a reversal would have been obvious to one having ordinary skill in the art since each of the components would function in the same manner. It has been held that a mere reversal of the essential

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working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

6. Claims 27, 28, 30-33, 35, and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayled (GB 1,553,868) in view of Vatter (US 2,353,376).

27, 28, 30, 38-40, 43: Mayled discloses a molded tray 10 shaped to contain a specified product 22 and having at least one indentation 24 disposed along at least one edge to function as a part of a locking mechanism, and a sleeve 30 retaining said molded tray and having at least one extended tab 40 disposed along an internal edge matingly interlocking with said at least one indentation. Mayled discloses the claimed invention with the exception of the portion of the sleeve providing a barrier preventing access to the tab.

Vatter teaches the provision of a barrier (flap 10) covering a locking mechanism 62/64/66 to preclude removal of the internal component without mutilating or destroying the outer sleeve thereby assuring the integrity of the retained articles (Page 1, Col. 2:10-25). With such teachings in hand, one of ordinary skill in the art would have found it obvious to add an additional panel to the sleeve of Mayled to cover the locking mechanism, thereby precluding removal of the internal component without mutilating or destroying the outer sleeve and assuring the integrity of the retained articles.

31-33, 35, 41, 42: Mayled-Vatter, as applied above, discloses the claimed invention with the exception of the reversal of the tab-recess arrangement. However, such a reversal would have been obvious to one having ordinary skill in the art since

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each of the components would function in the same manner. It has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

7. Claims 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hrenyo (US 4,375,262) in view of Vatter (US 2,353,376).

Hrenyo discloses a package comprising a molded tray 10 folded upon itself and having compartments 20 shaped to contain a specific product 30, and a sleeve 24 retaining the molded tray (Fig. 6). Hrenyo lacks the locking mechanism and the barrier.

Vatter teaches the provision of a barrier (flap 10) covering a locking mechanism 62/64/66 to preclude removal of the internal component without mutilating or destroying the outer sleeve thereby assuring the integrity of the retained articles (Page 1, Col. 2:10-25). With such teachings in hand, one of ordinary skill in the art would have found it obvious to add a locking mechanism and barrier to the tray and sleeve of Hrenyo to precluding removal of the internal component without mutilating or destroying the outer sleeve and assuring the integrity of the retained articles.

8. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foreman (US 6,615,985) in view of Vatter (US 2,353,376).

Foreman discloses a package assembly comprising an outer sleeve 4 of tapered shape configured as claimed and a tab 12, and a clamshell molded tray 5 configured to fully enclose a specific product and to be partially inserted into the sleeve 4 and having

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an internal edge 17 for receipt of tab 12. Foreman lacks arrangement of the tab on the clamshell and the internal edge on the sleeve, and the barrier.

As to the tab edge arrangement, such a reversal would have been obvious to one having ordinary skill in the art since each of the components would function in the same manner. It has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

As to the barrier, Vatter teaches the provision of a barrier (flap 10) covering a locking mechanism 62/64/66 to preclude removal of the internal component without mutilating or destroying the outer sleeve thereby assuring the integrity of the retained articles (Page 1, Col. 2:10-25). With such teachings in hand, one of ordinary skill in the art would have found it obvious to add an additional panel to the sleeve of Foreman to cover the locking mechanism, thereby precluding removal of the internal component without mutilating or destroying the outer sleeve and assuring the integrity of the retained articles.

### ***Double Patenting***

9. Applicant is advised that should claim 13 be found allowable, claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).



***Conclusion***

10. Applicants are respectfully reminded that they and other individuals, as set forth in 37 CFR 1.56, have a duty to bring to the attention of the Office any material prior art or other information cited or brought to their attention in any related foreign application. See MPEP 2001.06(a). The PCT application is considered a foreign application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728